

OR 16
Case 4:07-cv-04277-CW
MR. EDWARD THOMAS #P-64423
475-750 RICE CANYON RD
P.O. Box 3030 C-3-121
SUSANVILLE, CA. 96130
H.O.J.R

FILED

JAN 9 2008

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

✓
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MALIK JONES,
PLAINTIFF,

VS.
MIKE EVANS, et al.
SALINAS VALLEY STATE PRISON
DEFENDANTS,

CASE No. CD-4277 CW

MOTION FOR SUMMARY JUDGEMENT
PURSUANT TO RULE #56(a)(2)(C) OF FED. R.
CIV. P.

TO THE HONORABLE JUDGE CLAUDIA WILKEN:

I, EDWARD THOMAS #P-64423 DECLARE UNDER THE PENALTY OF PERJURY THE FOLLOWING.

- #1.) DUE TO PRISONER MALIK JONES CONGINITAL FUNCTIONING HE HAS ALWAYS HAD TO RECEIVE SOME FORM OF ASSISTANCE IN THE WRITING AND UNDERSTANDING OF DOCUMENTS THAT HAS BEEN PRESENTED TO THIS COURT IN HIS BEHALF IN RELATIONS TO THE ABOVE ENTITLED CASE MATTER.
- #2.) I HAVE PERSONAL KNOWLEDGE OF THIS DUE TO MY BEING ONE OF SEVERAL PRISONERS PRISONER MALIK JONES HAS REQUESTED ASSISTANTS FROM WHILE AT SALINAS VALLEY STATE PRISON WITH PRISONER JONES #K-09065 AND HAD TO ASSIST MR. JONES ON A ONGOING BASIS WITH THE UNDERSTANDING AND WRITING OF LEGAL DOCUMENTS - DUE TO PRISONER MALIK JONES MOBILITY IMPAIRMENT AND DISABILITY OF HIS "ARM" AND WRITING HAND BARELY BEING FUNCTIONAL AND AT TIMES NOT FUNCTIONING AT ALL AND HIS LIMITED MOBILITY - AMBULATION.
- #3.) MR. JONES ASK THIS COURT FOR AND ORDER OF SUMMARY JUDGEMENT IN THIS CASE BASED ON THE FOLLOWING FACTS:
 - A.) PRISONER JONES SUBMITTED THIS CASE MATTER ON 9-10-07
 - B.) THE COURT RECEIVED / FILED THIS CASE ON 9-20-07
 - C.) PRISONER JONES SUBMITTED WITH THIS COMPLAINT OVERWHELMING MERTIOUS CDC EVIDENCE TO THE FACTS OF HIS CLAIMS BEEN TRUE.

D) DEFENDANTS HAVE FAILED TO SUBMIT ANY FORM OF A RESPONSIVE PLEADINGS TO THIS CIVIL ACTION IN A TIMELY MANNER AS THEY ARE AWARE THAT THE FACTS ALLEGED WITHIN THIS CIVIL ACTION ARE TRUE

- *4). DUE TO THE ABOVE STATED FACTS- PLAINTIFF MAUK JONES-K-09061 RESPECTFULLY ASK THIS COURT FOR AN ORDER GRANTING SUMMARY JUDGEMENT IN THIS MATTER AGAINST EACH LISTED DEFENDANT IN THIS CASE AS THE DEFENDANT AND THEIR ATTORNEY HAS FAILED TO FILE DISPOSITIVE / RESPONSIVE PLEADINGS - MOTIONS AS TO THIS MATTER DISPUTING ANY MATERIAL FACTS IN A TIMELY MANNER AND HE IS ENTITLED TO A RULING OF SUMMARY JUDGEMENT IN THIS CASE PURSUANT TO RULES 56 (a) (c) (e) OF FEDERAL RULES OF CIVIL PROCEDURE
- *5) MR. JONES' DISABILITIES OF LOW COGNITAL FUNCTIONING REQUEST THE APPOINTMENT OF COUNSEL DUE TO EXCEPTIONAL CIRCUMSTANCES WILBORN V. ESCALERON, 789 F.2d. 1328, 1331 (9th Cir 1986) TO RESOLVE THE REMAINDER OF THESE PROCEEDINGS

I, EDWARD THOMAS, #P-64423, DECLARE UNDER THE PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT EXECUTED IN SUSANVILLE, CALIFORNIA ON THIS 17TH DAY OF DECEMBER, 2007

RESPECTFULLY SUBMITTED MR. Edward Thomas
 MR. EDWARD THOMAS #P-64423
 475-750 RICE CANYON Rd
 P.O. Box 3030 C-3-121
 SUSANVILLE, CA. 96130

 DATE

 SIGNATURE

 DATE

 SIGNATURE

 DATE

 SIGNATURE

 DATE

 SIGNATURE

ATTACHMENT F

Inmate Name: MALIK JONES CDCR# K 09065
 Housing: C-3-124
 High Desert State Prison
 P.O. Box
 Susanville, CA 96130

Clerk of the Court

Court Name U.S. DIST. COURT N.D. of CALIF
 Street Address 430 GOLDEN GATE AVE
 City, State, Zip code SAN FRANCISCO CA 94102

Date: 12-20-07I am an Inmate current housed at High Desert State Prison☒ I have a case pending in your court☐ I would like to file a case in your court regarding

Case Name

Number

(fill in reason for filing)

I claim to have a disability covered under the *Americans with Disabilities Act*. This disability makes it hard for me to read, write and/or understand material regarding my case(s). I ask the Court to provide me with LEGAL REPRESENTATION so I can proceed with my case.

Respectfully,

MALIK JONES
 Inmate Name

K-09065
 CDCR#

This Inmate was assisted in writing this letter by

PRISONER THOMAS #P-64423

Staff Name

Position

This assistance was give to satisfy obligations of the California Department of Corrections and Rehabilitation and under the terms of two court ordered remedial plans, Armstrong v. Schwarzenegger and Clark v. California are federal civil rights actions brought pursuant to the American with Disabilities Act (ADA). Under the terms of the remedial plans, The Department of Corrections and Rehabilitation is obligated to advise the court that the above inmate is claiming a disability and is requesting a reasonable accommodation under the ADA. This letter satisfies the Department's obligation. The above inmate may be unable to effectively communicate with the court or fully prosecute this action due to their claimed disability.

INMATE'S CLAIMED DISABILITY:

LOW COGNITIVE FUNCTION / MODERATELY IMPAIRED
 (Example: Low cognitive function, visually impaired)

INMATE'S REQUESTED ACCOMMODATION:

(Example: Assignment of Counsel, Large Print)

Signature of Staff

Printed Name and Title

PROOF OF SERVICE BY MAIL

I, Edward Thomas EDWARD THOMAS, do hereby declare:

I served a copy of the following documents on each of the parties as listed below by placing a true copy in the United States Mail at SUSANVILLE, California on DECEMBER 20th 2007.

- 1) MOTION FOR SUMMARY JUDGEMENT; DECLARATION OF EDWARD THOMAS FOR MARK JONES PURSUANT TO FED. R. CIV. P. 56 (b) (5) (C) (ES)

Person or party served:

1) U.S. DISTRICT COURT
NORTHERN DIST. OF CALIFORNIA
450 GOLDEN GATE AVE
SAN FRANCISCO CA 94102

2) OFFICE OF THE ATTORNEY GENERAL
455 GOLDEN GATE AVE STE #1100B
SAN FRANCISCO CA 94102-7001

I declare under penalty of perjury that the foregoing is true and correct.

Executed in SUSANVILLE, California on this the 20th day of DECEMBER, 20 07.

Edward Thomas #P-64423

DECLARANT

Mr. Edward Thomas